

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of

Numbering Resource Optimization

CC Docket No. 99-200

South Bay Cities Council of Governments,  
The Telephone Connection of Los Angeles,  
Inc. and The Telephone Connection Local  
Services, LLC Petition for Emergency Relief  
of the California Public Utilities Decision to  
Implement an All-Services Area Code Overlay  
in the 310 Area Code

**VERIZON CALIFORNIA INC.'S  
OPPOSITION TO PETITION FOR EMERGENCY RELIEF**

The Commission should immediately deny the petition filed by the South Bay Cities Council of Governments, The Telephone Connection of Los Angeles, Inc. and The Telephone Connection Local Services, LLC (collectively, "Petitioners") in its entirety. The Commission should reject the petition for a stay of the California Public Utilities Commission's ("California PUC" or "PUC") area code overlay plan, because Petitioners' objections to the plan cannot succeed on their merits and a stay will cause substantial harm to consumers, businesses, and carriers facing imminent area code exhaust. The Commission should also deny Petitioners' request for a declaratory ruling directing the California PUC to modify its overlay plan, because the PUC acted within its delegated authority in crafting a reasonable overlay plan in compliance with the Commission's guidelines for area code relief.

**I. THE COMMISSION SHOULD DENY PETITIONERS' REQUEST FOR AN EMERGENCY STAY**

The Commission should immediately deny Petitioners' attempt to delay area code relief in the area served by the 310 area code by seeking a stay of the California PUC's overlay plan. The 310 area code, which serves part of the Los Angeles area, is on the brink of exhaust. As of December 22, 2005, only 157 thousands blocks (including the 10 in the *single remaining* unassigned full code) remain available for assignment to carriers in the entire area code.<sup>1</sup> Eight (8) of the sixteen (16) rate centers in the 310 area code had fewer than five (5) thousand-blocks remaining for assignment.<sup>2</sup> Some or all of these rate centers will also likely require the release of a full NXX code in the near future. However, with the exception of the single remaining unassigned code noted above, there are no codes left at this time to meet such demand.

The California PUC and carriers in California have been working diligently to provide much needed area code relief in the Los Angeles area. Earlier this year, the California PUC ordered an all-services overlay for the region served by the 310 area code.<sup>3</sup> Carriers have already dedicated substantial time and resources to preparations for the overlay, such as network translations to support the new area code and public education efforts to inform consumers of the upcoming change to 1+ ten-digit dialing for calls between and within the area codes in the overlay region. Indeed, permissive 1+ ten-digit dialing is scheduled to begin in only days – on

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<sup>1</sup> Neustar Pool Tracking Report, <https://www.nationalpooling.com/pas/control/pooltrackingreportstep1?siteTyp=FR> (as of Dec. 22, 2005).

<sup>2</sup> *See id.*

<sup>3</sup> *Rulemaking Into Competition for Local Exchange Service*, Rulemaking Docket No. 95-04-043, Decision No. 05-08-040, Opinion Granting Petition to Modify Decision 00-09-073 (Cal. PUC rel. Aug. 25, 2005) ("*Overlay Decision*").

December 31, 2005. Nevertheless, Petitioners now ask the Commission to order a stay preventing the California PUC from proceeding with its overlay plan.

As both the Commission and the Court of Appeals for the D.C. Circuit have recognized, a stay order is appropriate only if the Petitioners have established that: (1) a stay will cause little harm to third parties; (2) the petitioners have a substantial likelihood of succeeding on the merits of their claim; (3) the petitioners will suffer irreparable harm if a stay is not granted; and (4) a stay will serve the public interest.<sup>4</sup> Petitioners have failed to satisfy any of these requirements for a stay, and their stay request should be denied.

*First*, in light of the imminent threat of area code exhaustion, *any* stay of the California PUC's overlay plan for the 310 area code will cause substantial harm to consumers, businesses, and carriers. *See Cuomo*, 772 F.2d at 974. Delaying implementation of the PUC's plan runs the risk of number exhaust, harming consumers and businesses that want to obtain service and causing competitive harm to carriers that may be unable to obtain numbering resources. In addition, consumers have already been notified of the impending overlay plan and the new dialing patterns, which are scheduled to begin next week. Carriers would have to alert consumers that the scheduled changes had been postponed, and then notify consumers again of a new implementation schedule when the stay is lifted. Consumer confusion will likely result, and carriers will be forced to make additional expenditures in an attempt to inform consumers about the changing implementation schedule. *See, e.g., Draft Opinion on Modification* at 7-11

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<sup>4</sup> *See Cuomo v. U. S. Nuclear Regulatory Comm'n*, 772 F.2d 972, 974 (D.C. Cir. 1985); *Florida Public Service Comm'n Request for Interpretation of the Applicability of the Limit on Change in Interstate Allocation*, 11 FCC Rcd 14324, ¶ 3 (1996).

(discussing consumer confusion that would be caused by a delay).<sup>5</sup> Petitioners simply ignore these harms, and their request for a stay should be denied.

*Second*, Petitioners' objections to the California PUC's overlay plan have no merit, and Petitioners therefore cannot demonstrate a likelihood of success on the merits. *See Cuomo*, 772 F.2d at 974. Contrary to Petitioners' assertions, the California PUC acted within its delegated authority to implement an area code overlay, because the PUC's plan would require mandatory ten-digit dialing for all calls within and between the area codes affected by the overlay. *See Overlay Decision* at 48-50, 56-57. In the *Second Report and Order*,<sup>6</sup> the Commission authorized state commissions to address matters involving the implementation of new area codes, so long as the state commissions complied with the Commission's numbering administration guidelines. *See Second Report and Order* ¶¶ 271-272, 281-293. Among those guidelines is the Commission's requirement that mandatory "ten-digit dialing" be imposed within and between the old and new area codes in any all-services overlay. *See id.* ¶¶ 281-287; 47 C.F.R. § 52.19(c)(3)(ii).

The California PUC's overlay plan complies with the Commission's ten-digit dialing requirement. As part of the overlay, all customers within the overlay region will be required to dial the three-digit area code, plus the seven-digit telephone number. *See Overlay Decision* at 48-50, 56-57. Petitioners' claim that the *Overlay Decision* violates the Commission's mandatory ten-digit dialing rule because it also requires users to dial a "1" preceding the ten-digit number is without merit. As the Commission has explained, its mandatory ten-digit dialing requirement for

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<sup>5</sup> Draft Decision of California Administrative Law Judge Pulsifer, Rulemaking Docket No. 95-04-043, Opinion on Petition for Modification (Cal. PUC Nov. 15, 2005) ("*Draft Opinion on Modification*").

<sup>6</sup> *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 19392 (1996) ("*Second Report and Order*").

overlays is based on concerns that competition could be harmed if customers within the “old” area code could continue to dial only seven digits. The Commission was concerned that newer carriers would have fewer numbering resources in the “old” area code and would therefore have to assign their customers numbers in the new overlay area code. If customers in the old area code were allowed to continue using only seven-digit dialing to call other customers in the old area code, this would mean that for most calls, incumbents carriers’ customers would have simpler dialing requirements – seven digits – than customers of other carriers, who would have to dial ten digits. To ensure that all customers in the region have similar dialing requirements, area code overlays are permitted only if mandatory ten-digit dialing has been implemented for all calls between and within the new and old area codes. *See Second Report and Order* ¶¶ 281-287; 47 C.F.R. § 52.19(c)(3)(ii). The Commission’s mandatory ten-digit dialing requirement is therefore intended to distinguish ten-digit dialing from seven-digit dialing – not to distinguish ten-digit dialing from 1+ dialing.<sup>7</sup> Indeed, the two cases cited by Petitioners as examples of the Commission’s enforcement of its ten-digit dialing requirement involve state commissions’ attempts to maintain seven-digit dialing – not 1+ ten-digit dialing – following an overlay.<sup>8</sup>

Thus, the California PUC’s decision to impose mandatory “1+” ten-digit dialing for all wireline customers within the overlay area complies with both the letter and the spirit of the Commission’s ten-digit dialing requirement. As required by the Commission’s rules, all customers within the overlay area will be required to dial a three-digit area code, in addition to

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<sup>7</sup> *See Rulemaking Into Competition for Local Exchange Service*, Rulemaking Docket No. 95-04-043, Decision No. 05-11-033, Order Denying Rehearing of Decision 05-08-040 at 4-5 (Cal. PUC rel. Nov. 18, 2005) (“*Rehearing Decision*”).

<sup>8</sup> *See People of the State of New York v. Federal Communications Commission*, 267 F.3d 91, 99 (2d Cir. 2001) (New York retained seven-digit dialing after an overlay in New York City); *Pennsylvania Public Utility Comm’n Petition for Expedited Waiver*, 12 FCC Rcd 3783, ¶ 4 (1997) (Pennsylvania retained seven-digit dialing after an overlay in Pittsburgh).

the seven-digit telephone number for all calls. Because the PUC's requirement of "1+" as a prefix to the ten-digit number will apply to all wireline customers equally, the competitive concerns underlying the Commission's rule – concerns that different carriers' customers would be treated differently in an overlay – are not implicated here.<sup>9</sup>

Moreover, the *Overlay Decision* reflects the PUC's determination of the best way to implement area code relief in California consistent with Commission rules. When the Commission decided to authorize state commissions to resolve matters involving the implementation of new area codes, it explained that "[s]tate commissions are uniquely positioned to understand local conditions and what effect new area codes will have on those conditions." *Second Report and Order* ¶ 272. The California PUC relied on its knowledge of conditions in California in crafting its overlay plan, including mandatory 1+ ten-digit dialing. For example, the PUC found that wireline customers and service providers in California were accustomed to dialing 1+ ten digits for any call to a different area code. Thus, imposing 1+ ten-digit dialing within the overlay area was merely an extension of the dialing patterns that California customers were already used to. *See Overlay Decision* at 49. Indeed, as a California Administrative Law Judge opined in addressing the 310 overlay, "eliminating the need to dial the prefix '1' would be counterintuitive and contradictory to the familiar dialing pattern in California. . . . Thus, [the] proposed modification [to eliminate 1+] would introduce an added layer of complexity into customers' adjustment to the new 310/424 area code overlay." *Draft Opinion on Modification* at 9.

The PUC also found that the wireline network in California is currently configured to require dialing "1" before dialing a ten-digit telephone number. *See Overlay Decision* at 48-49.

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<sup>9</sup> *See Rehearing Decision* at 3-6; *Draft Opinion on Modification* at 9.

This is because the “1” alerts the switching equipment to wait for ten digits to be dialed before attempting to transmit a call, rather than transmitting a call based only on seven digits. This alert is necessary because of the number of conflict codes (NPA and NXX assigned the same numbers) that exist within both intraLATA and interLATA areas in California. To resolve these conflicts without requiring a “1” would require carriers to program into their switches a call timing delay of four to eight seconds, to allow for completion of dialing before transmission of the call. Such a call timing delay would add substantially to the reprogramming carriers already must do to implement the overlay and could increase busy time in network systems. For all of these reasons, the California PUC’s overlay plan is a proper exercise of its delegated authority, and Petitioners cannot succeed on the merits of their petition for declaratory ruling. Their request for a stay should therefore be denied.

*Third*, none of Petitioners’ arguments about the harm they will allegedly suffer can justify a stay. *See Cuomo*, 772 F.2d at 974. Petitioners claim that they will be harmed if they are required to conduct and fund public education efforts to inform consumers about an overlay that ultimately is not implemented. Given Petitioners’ slim chances of success on the merits of their petition for declaratory ruling, as compared to the likelihood that the PUC’s overlay plan will ultimately go forward, the harm identified by Petitioners is speculative at best. By contrast, carriers have already begun to make the required network changes and to plan, prepare, and execute the public education program – efforts that will have to be reversed, and costs that will be wasted, if a stay is implemented. *See supra* at 3.

*Fourth*, the public interest is not served by a stay. *See Cuomo*, 772 F.2d at 974. In fact, a stay will harm the public interest because it will delay area code relief to a region facing imminent number exhaust. A delay in area code relief will threaten customers’ ability to obtain

telecommunications services, and will threaten carriers' ability to provide it; will competitively disadvantage those carriers with fewer numbers in inventory as compared to those carriers who have more numbering resources available; and will also cause consumer confusion, as consumers have already been notified about the overlay plan and upcoming changes to their dialing patterns.

The public interest is also harmed by permitting Petitioners to hold up the overlay plan in order to repeat arguments that they have raised – and that have been rejected – multiple times at the California PUC, both leading up to and after the PUC's *Overlay Decision*. Each of Petitioners' arguments has already been given due consideration.<sup>10</sup> There is no public interest served by delaying area code relief so that Petitioners may have a fifth bite at the apple.

Petitioners' request for a stay should be denied.

## **II. PETITIONERS' REQUEST FOR A DECLARATORY RULING SHOULD BE DENIED ON ITS MERITS**

The same factors that militate against a stay also demonstrate that Petitioners' request for a declaratory ruling should be denied on its merits. In the *Second Report and Order*, the Commission recognized that "[s]tate commissions are uniquely positioned to understand local conditions and what effect new area codes will have on those conditions." *Second Report and Order* ¶ 272. Accordingly, the Commission authorized the states to resolve matters involving the implementation of new area codes, as long as the states followed guidelines set forth by the Commission. *See* 47 C.F.R. § 52.19.

As discussed above, the California PUC's *Overlay Decision* is consistent with the Commission's guidelines. The PUC's overlay plan includes mandatory ten-digit dialing for all

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<sup>10</sup> *See, e.g., Overlay Decision* at 48-49; *Order Denying Rehearing of Decision* at 2-6 ("We have reviewed each and every allegation of error raised by TCLA and find no merit in any."); *Draft Opinion on Modification* at 2-13.



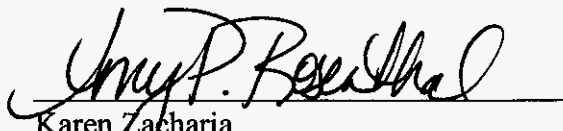
customers placing calls within or between the affected area codes. That the PUC's plan also requires all wireline customers to dial a "1" before the ten-digit telephone number is not a violation of the Commission's guidelines. Rather, it reflects the PUC's careful consideration of local conditions in crafting an area code relief plan that both complies with the Commission's requirements and takes account of local consumer preferences and network configurations. Because the California PUC has acted within its delegated authority in ordering its overlay plan, the Commission should defer to the California PUC's judgments regarding "1+ dialing" and should deny Petitioners' petition for declaratory ruling directing the PUC to modify its plan.

### **CONCLUSION**

For the foregoing reasons, Petitioners' petition for emergency relief is without merit and should be denied in its entirety. The Commission also should deny Petitioners' request for a stay and should deny Petitioners' request for a declaratory ruling directing the California PUC to modify its overlay plan.

Respectfully submitted,

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